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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,689

10/18/2005

Stephanie M. Whited

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07/16/2008

Union Carbide Chemicals and
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EXAMINER

LU, C CAIXIA

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

07/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/553,689</p>	<p>Applicant(s) WHITED ET AL.</p>	
	<p>Examiner Caixia Lu</p>	<p>Art Unit 1796</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Caixia Lu/
Primary Examiner, Art Unit 1796

Continuation of 11. does NOT place the application in condition for allowance.

(i) Applicants indicate in the Remarks that the previous Action states that Jorgenson-745 fails to disclose or suggest partial activation of the catalyst precursor, and that Jorgenson-745 is cited for its teaching of contacting the catalyst precursor using in-line static mixers. In view of the examiner's whole response of May 29, it is apparent that Jorgenson-405 should be cited instead and the examiner apologizes for such a typographic error. As shown in the previous Office Action, it is the examiner position that Jorgenson-745 expressly teaches the partial action of the catalyst precursor.

(ii) Applicants further argue that Example 5 of Jorgenson-866 fails to disclose or suggest Applicants' recited steps of partially pre-activating the catalyst precursor by contacting the slurry with one or more Lewis Acids employing one or more in-line mixers, and transferring the partially pre-activated catalyst precursor under plug-flow conditions into a gas phase, olefin polymerization reactor and adding an additional amount of the activator to the reactor to produce a homogeneous activated catalyst mixture. On the contrary, in lines 45-57 of col. 13, Jorgenson-866 expressly discloses that the catalyst precursor is partially activated in two sequential residence time vessels (the in-line static mixers), the partially activated catalyst precursor from the second vessel then exits the second residence time vessel and goes directed in to the polymerization reactor (fluidized bed, gas phase) where it is fully activated with the final amount of cocatalyst and ethylene copolymerization is carried thereupon. Therefore, the teaching of Jorgenson-866 meets the limitations of the instant claims. Applicants also argue that the partially activated catalyst precursor of Jorgenson-866 is fully activated in the presence of olefin monomer which is different than the instant claims. However, applicants are reminded that the instant claims do not limit the partially activated catalyst precursor to be fully activated in the absence of the monomers. As a matter of fact, in industry, the partially activated catalyst precursor, cocatalyst and monomer are often continuously cofeedered to the polymerization reactor in order to reach a continuous steady polymerization state.

In view of foregoing, the rejections of the record are still deemed proper.